

Remarks

This is in response to the Office Action dated April 7, 2004 in which claims 1-12 and 24-29 were rejected under 35 U.S.C. 103(a) as being unpatentable over Belcher et al. (USP 4,395,347) in view of Lupien et al. (USP 4,103,685).

Per the above amendment, claims 1 and 6 each have been amended to make it more clear that when the first conduit is closed and positive pressure is applied to the first collection vessel (or syringe), liquid is transferable from the vessel (syringe) through the hollow needle.

Belcher does not come close the instant invention. Granted, Belcher discloses a first conduit 48, a second conduit 54 and arguably a third fluid passage (sampling port 60). But the fact remains that there is no blood collecting vessel (or syringe) disclosed in Belcher. Nor is there any disclosure or suggestion in Belcher that the fluid is to be transferred from any blood vessel or syringe to a hollow needle, or a Vacutainer holder. This is made clear by Belcher in that he discloses a blood bag 58 for collecting blood. In column 8, lines 8-19, Belcher further elaborates that blood is collected into bag 58 after the cannula 40 is inserted to the patient. Thereafter, clamp 70 is shut and the needle 68 (part of the Vacutainer or blood collection holder 64) is opened so as to allow various samples of blood from the patient to be collected into vacuum tubes -- that are inserted into the blood collection holder 64 -- for testing. This is done to ensure that the collected blood in blood bag 58 does not have any contaminants.

Thus, there is no disclosure in Belcher that the blood collected in blood bag 58 could be retransferred to needle 68 of the blood collection holder 64. This is self evident insofar as the blood bag 58 as shown in Fig. 3 of Belcher most likely is sealed once that blood is collected so that blood may be reintroduced back to the patient only when the blood bag is turned upside-down, as is conventionally done. Further, as admitted by the examiner, Belcher does not disclose any first collection vessel or syringe, or any means by which negative or positive pressure could be applied.

Lupien discloses a syringe that is used to withdraw blood from the patient, and then reintroduced the blood into the patient by way of a filter 28. See Figs. 2A and 2B and the disclosure in column 6, lines 9-22. In particular, the embodiment shown in Figs. 2A and 2B of Lupien discloses that a syringe 50 is used to withdraw blood from the patient at stopcock 18. Next, syringe 50 is removed and reinserted to a second stopcock 54. Thereafter, the blood stored in syringe 50 is input to filter 28 so that it may be reintroduced back to the patient. There is thus no disclosure or suggestion in Lupien of collecting blood from the patient and then sending that blood to a Vacutainer holder. Indeed, Lupien mandates that the blood withdrawn from the patient be reintroduced into the patient.

Thus, even were Belcher to be combined with Lupien, such combination nonetheless would fall far short of the instant invention as set forth in independent claims 1 and 6, which require the closing of a first conduit and the applying of a positive pressure to the collection vessel so that liquid is transferred from the collection vessel to a hollow shaft member. This is not disclosed or suggested by Belcher, Lupien or a combination of both. Claim 12 is even further removed from the combination of Belcher and Lupien insofar as that combination fails to disclose none of the steps as set forth in that method claim. The same is true with respect to independent claims 24, 26 and 28.

In light of the foregoing, applicant respectfully submits that the instant invention, as set forth by the being rejected claims, is patentable over the prior art. Accordingly, the examiner is respectfully requested to reconsider the application and allow all of the pending claims.

Respectfully submitted,



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